

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 16-329

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Judge: Andrew Hettinger

Complainant: Commission on Judicial Conduct

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**AMENDED ORDER**

**I. BACKGROUND**

On February 6, 2017, the Commission on Judicial Conduct publically reprimanded Judge Andrew Hettinger (hereinafter Respondent) finding that the Respondent's conduct as a judicial candidate violated multiple rules in Canon 4 of the Code on Judicial Conduct (Code). On February 16, 2017, Respondent filed a request for a formal hearing pursuant to Commission Rule 23 (b)(2). Pursuant to Commission Rules 23 (b)(2)(B) and 24 (a), formal charges were filed on February 27, 2017. A Response was filed on March 14, 2017. Formal Hearing before the Commission was then scheduled for May 15, 2017. On May 10, 2017, the parties filed Joint Prehearing Statement, Stipulated Facts for Formal Hearing, and Stipulated Code of Judicial Conduct Violations.

**II. FORMAL HEARING**

The formal hearing was held before the Commission on May 15, 2017. The Stipulated Facts for Formal Hearing and the Stipulated Code of Judicial Conduct Violations were accepted and adopted by the Commission. The Stipulated Final Exhibits List and admission of eleven exhibits for the hearing were accepted, and the exhibits were admitted. The Respondent testified at the hearing.

**III. FINDINGS OF FACT**

By stipulation, the following facts were accepted and adopted by the Commission:

1. The Commission has jurisdiction of this matter pursuant to Article 6.1, § 4 of the Arizona Constitution and the Rules of the Commission.
2. Respondent has served as a justice of the peace in Maricopa County, Arizona since January 2017, and continues to hold that position.

*This order may not be used as a basis for disqualification of a judge.*

3. As a judicial candidate and judge, Respondent was and is subject to the Code of Judicial Conduct (Effective 09/01/09, last amended 11/24/09) as set forth in Supreme Court Rule 81.

4. At all times relevant to the allegations of misconduct in the Statement of Charges, Respondent was a judicial candidate, subject to the provisions of Canon 4 of the Code.

5. In 2016, Respondent, then thirty years of age and licensed as an attorney for over two years, was a Republican candidate for Justice of the Peace for the Moon Valley precinct in Maricopa County, Arizona.

6. During his campaign, Respondent engaged in various campaign activities, including establishing and maintaining campaign websites and a social media page.

7. Respondent's campaign-related website was [www.andrewhettinger.com](http://www.andrewhettinger.com). After the November 2016 general election, Respondent deactivated this website.

8. Respondent used a Facebook page for campaign purposes, which was open to the public.

9. Respondent's Facebook page contained a small image, approximately the size of a business card or postcard, with a logo that stated "Andrew Hettinger Justice of the Peace." The logo did not contain the words "elect" prior to the candidate's name, or the word "for" in between the candidate's name and the position sought, as required by the Code.

10. Within the "About" section of Respondent's Facebook page next to the logo, Respondent stated: "Andrew Hettinger is a Republican Candidate for Justice of the Peace in the Moon Valley precinct."

11. The logo appeared on Respondent's Facebook page from approximately July 2015, when the page was created, until approximately May 12, 2016, when Respondent removed the logo after receiving correspondence from the Commission regarding the potential Code violation.

12. Respondent initially had two other primary challengers – Travis Pullen and Carl Seel – for the position of Justice of the Peace for the Moon Valley precinct.

13. Respondent obtained a domain name – [www.tpullen.com](http://www.tpullen.com) – which is close to the name of one of his opponents, Travis Pullen. Respondent had internet traffic automatically redirected from that site to his website – [www.andrewhettinger.com](http://www.andrewhettinger.com).

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14. Respondent obtained the domain name – www.tpullen.com – after Travis Pullen’s public announcement that he intended to use that name for his campaign website. Respondent discovered that Mr. Pullen did not already own www.tpullen.com, and he chose to acquire that domain name.

15. Respondent obtained the domain name – www.tpullen.com – on or about March 29, 2016, and had internet traffic automatically redirected to his website until approximately May 12, 2016, when Respondent deactivated the website after receiving correspondence from the Commission regarding the potential Code violation.

16. Travis Pullen withdrew from the justice of the peace race, following a challenge to his nominating petitions. Respondent defeated Carl Seel in the August 30, 2016 primary election. Respondent had no opponent in the November 8, 2016 general election.

17. Respondent attended a portion of a training session entitled “Ethics Issues When Running for Judge,” on April 27, 2016, at the Maricopa County Elections Department, presented by George A. Riemer, Executive Director of the Commission on Judicial Conduct.

18. If Travis Pullen were to testify, he would state that he did not confront Respondent about his purchase of www.tpullen.com directly, but rather, retained counsel who raised the issue with Respondent. Additionally, Mr. Pullen would testify that in his opinion, the funds he expended on legal fees (two \$400.00 payments on May 20, 2016 and June 20, 2016, as reported in his campaign finance reports) could have been used on his campaign, which may have resulted in him obtaining the necessary signatures to be placed on the ballot.

Additional findings of fact are noted in the section below titled, “Commission Rule 19 Mitigating and Aggravating Factors.”

#### **IV. DISCUSSION**

##### **A. Commission Rule 19 Mitigating and Aggravating Factors**

Commission Rule 19, Rules of the Commission on Judicial Conduct, sets forth a number of factors to consider in assessing the appropriate sanction to impose. In considering the relevant mitigating and aggravating factors, the Commission reached the following findings:

*This order may not be used as a basis for disqualification of a judge.*

## **Mitigating Factors**

**1. The judge's experience and length of service on the bench.** In 2016, Respondent was thirty years of age and licensed as an attorney for over two years. Respondent has served as a justice of the peace in Maricopa County, Arizona since January 2017, and continues to hold that position.

**2. Whether the judge has recognized and acknowledged the wrongful nature of the conduct and manifested an effort to change or reform the conduct.** The logo, without the word "elect" or "for," appeared on Respondent's Facebook page from approximately July 2015, when the page was created, until approximately May 12, 2016, when Respondent removed the logo after receiving correspondence from the Commission regarding the potential Code violation. Respondent immediately ceased use of [www.tpullen.com](http://www.tpullen.com) on May 12, 2016. Respondent testified that after approximately May 12, 2016, and before placing his campaign signs, he added stickers with the word "VOTE" to each of his campaign signs. During his testimony, Respondent was contrite and candid. Upon reflection, he acknowledged that his actions could be seen as bringing his "integrity" into question.

**3. Whether there has been prior disciplinary action concerning the judge, and if so, its remoteness and relevance to the present proceeding.** Respondent has no prior disciplinary history.

**4. Whether the judge cooperated fully and honestly with the Commission in the proceeding.** Respondent cooperated with the Commission.

## **Aggravating Factors**

**The Commission finds in aggravation:**

**1. The nature, extent, and frequency of the misconduct.**

Respondent's Facebook page contained a small image, approximately the size of a business card or postcard, with a logo that stated "Andrew Hettinger Justice of the Peace." The logo did not contain the words "elect" prior to the candidate's name, or the word "for" in between the candidate's name and the position sought, as required by the Code. Respondent testified that he had skimmed over Canon 4 of the Code. Respondent also attended a portion of a training session entitled "Ethics Issues When Running for Judge," on April 27, 2016, at the Maricopa County Elections Department, presented by George A. Riemer, Executive Director of the Commission on Judicial Conduct. Respondent did receive a copy of the written materials from the session, and "looked over" part of the materials. Respondent testified that he initially did not

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believe that Rule 4.3(D) applied to him since he was running for “justice of the peace,” and the term “judge” is used in Rule 4.3(D).

Respondent’s campaign website [www.andrewhettinger.com](http://www.andrewhettinger.com) was acquired in July 2015. Travis Pullen announced in March 2016 that he intended to use [www.tpullen.com](http://www.tpullen.com) as his campaign website. After Travis Pullen’s announcement, Respondent went on the internet to investigate the website disclosed by Travis Pullen. He found that Travis Pullen had not secured the domain name [www.tpullen.com](http://www.tpullen.com). With full knowledge of Travis Pullen’s intended use, Respondent secured the domain name for “\$25.00 or \$30.00.” After acquiring the domain name, Respondent opened a website, researched how to, and then redirected all hits on [www.tpullen.com](http://www.tpullen.com) to [www.andrewhettinger.com](http://www.andrewhettinger.com).

In addition to acquiring [www.tpullen.com](http://www.tpullen.com), Respondent testified that he acquired [www.travispullen.com](http://www.travispullen.com) and [www.pullenforjustice.com](http://www.pullenforjustice.com) web addresses. He did not redirect internet traffic from the last two web addresses to [www.andrewhettinger.com](http://www.andrewhettinger.com).

Respondent testified that he went online and tried to find similar information concerning his other opponent in the primary, Carl Seel. Respondent’s attempt to acquire any domain names related to Carl Seel was unsuccessful.

Respondent had acquired domain names involving the use of “Pullen” as early as December 2015 and did not cease his activity in that regard until after receiving the Commission’s letter in May 2016. Travis Pullen was out of the race sometime in June 2016.

Respondent testified that he was caught up in the campaign, therefore, his conduct in acquiring domain names and redirecting traffic to his webpage was an impulsive decision. Respondent’s efforts focused on both judicial opponents and were calculated to disadvantage them in the campaign. The totality of Respondent’s conduct is not consistent with constituting an impulsive decision; rather, it was a calculated strategic campaign plan.

**2. Whether the conduct occurred in the judge’s official capacity or private life.** As a judicial candidate, subject to the provisions of the Code, Respondent’s misconduct occurred in his official capacity.

**3. The nature and extent to which the acts of misconduct injured other persons or respect for the judiciary.** Respondent’s misconduct resulted in

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a negative impact on then judicial candidate Travis Pullen and has likely resulted in a negative impact on the public's respect for the judiciary.

## **B. Code Violations**

The Commission finds that Respondent's conduct as a judicial candidate violated multiple rules in Canon 4 of the Code, as follows:

- Rule 4.2. states: (A) A judicial candidate shall: (1) act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary; (2) comply with all applicable election, election campaign, and election campaign fund-raising laws and regulations; (3) review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee, as authorized by Rule 4.4, before their dissemination; and (4) take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities other than those described in Rule 4.4 that the candidate is prohibited from doing by Rule 4.1.

- Rule 4.3 states: During the course of any campaign for nomination or election to judicial office, a judicial candidate, by means of campaign materials, including sample ballots, advertisements in the media, electronic communications, or a speech, press release, or any other public communication, shall not knowingly or with reckless disregard do any of the following:

- (A) Post, publish, broadcast, transmit, circulate, or distribute information concerning the judicial candidate or an opponent that would be deceiving or misleading to a reasonable person;

...

- (D) Use the term "judge" when the judicial candidate is not a judge unless that term appears after or below the name of the judicial candidate and is accompanied by the words "elect" or "vote," in prominent lettering, before the judicial candidate's name or the word "for," in prominent lettering, between the name of the judicial candidate and the term "judge";

...

- (J) Falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a judicial candidate by a person, organization, political party, or publication.

*This order may not be used as a basis for disqualification of a judge.*

By stipulation, the following code violations were admitted by Respondent and are hereby adopted by the Commission:

By Respondent's conduct stated above in paragraphs 5-11 of the stipulated facts adopted by the Commission (facts regarding Respondent's logo), Respondent violated Rules 4.3 and 4.3(D) of the Code.

By Respondent's conduct stated in paragraphs 5-7 and 12-16 of the stipulated facts adopted by the Commission (facts regarding the redirection of internet traffic from www.tpullen.com), Respondent violated Rule 4.2(A)(1) of the Code.

The Commission also finds that Respondent's conduct in redirecting internet traffic from www.tpullen.com violated Rule 4.3 (A) and Rule 4.3(J).

As a judicial candidate, Respondent, with knowledge of his judicial opponent Travis Pullen's intent to use www.tpullen.com as his campaign website, obtained and registered www.tpullen.com, before Travis Pullen could register that domain name. Respondent researched how to redirect internet traffic, and then took the extra step to automatically direct visitors from that site to his website, www.andrewhettinger.com. Respondent testified that he also acquired www.travispullen.com and www.pullenforjustice.com. He did not redirect internet traffic from the last two web addresses to www.andrewhettinger.com. Respondent testified that he went online and tried to find similar information concerning his other opponent in the primary, Carl Seel. Respondent's attempt to acquire any domain names related to Carl Seel was unsuccessful. The commission finds Respondent's conduct to be deceptive and dishonest. Such conduct violated Rule 4.3(A) by posting, publishing, broadcasting, transmitting, circulating or distributing information concerning his judicial candidacy and his opponent that would be deceiving or misleading to a reasonable person. By engaging in this conduct, Respondent also failed to act in a manner that is consistent with the independence, integrity, and impartiality of the judiciary as required by Rule 4.2. Finally, the Commission finds Respondent's conduct violated Rule 4.3(J), as the misdirection of the website was a false identification of the source of a statement. Comment 1 to Rule 4.3 states, "a judicial candidate must be scrupulously accurate, fair and honest in all statements made by the candidate and his or her campaign committee."

## V. CONCLUSION

After a formal hearing on May 15, 2017, the receipt and review of the pleadings, the stipulations, the testimony of the Respondent, and the arguments of Disciplinary Counsel and Respondent's Counsel:

*This order may not be used as a basis for disqualification of a judge.*

Judge Andrew Hettinger is hereby publically reprimanded for his conduct as described above and pursuant to Commission Rule 17 (a).

The record in this case, consisting of the February 6, 2017 reprimand order, judge's notice of request for hearing, notice of institution of formal proceedings, statement of charges, the judge's response, case management order, joint prehearing statement, stipulated facts for formal hearing, stipulated code of judicial conduct violations, and this Order, shall be made public as required by Commission Rule 9(a).

The oral request made at the hearing by Disciplinary Counsel that Respondent pay the costs of fees of the Commission in preparing and conducting the formal hearing in this matter is hereby denied.

Commission members Gus Aragón, Jr., Margaret H. Downie, George H. Foster, Jr. and Art Hinshaw did not participate in the hearing and deliberations on this case.

Amended: May 31, 2017

FOR THE COMMISSION

/s/ Louis Frank Dominguez

Hon. Louis Frank Dominguez  
Commission Chair

A copy of this amended order was emailed to disciplinary counsel and to the judge's attorney on May 31, 2017.

*This order may not be used as a basis for disqualification of a judge.*



State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 16-329

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Judge:           Andrew Hettinger

Complainant:   Commission on Judicial Conduct

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**CLARIFICATION ORDER**

On May 30, 2017, the Commission on Judicial Conduct publically reprimanded Judge Andrew Hettinger finding that his conduct as a judicial candidate violated multiple rules in Canon 4 of the Code on Judicial Conduct, and issued an Order to the appropriate parties. After further review of that Order, a clerical error was noted on page 5, which misstated a date, in bold, as shown below:

Respondent had acquired domain names involving the use of “Pullen” as early as **September 2016** and did not cease his activity in that regard until after receiving the Commission’s letter in May 2016. Travis Pullen was out of the race sometime in June 2016.

An amendment to the Order was made to include the corrected date, in bold, as shown below:

Respondent had acquired domain names involving the use of “Pullen” as early as **December 2015** and did not cease his activity in that regard until after receiving the Commission’s letter in May 2016. Travis Pullen was out of the race sometime in June 2016.

Dated: May 31, 2017

FOR THE COMMISSION

/s/ Louis Frank Dominguez  
Hon. Louis Frank Dominguez  
Commission Chair

A copy of this order and the amended order was emailed to disciplinary counsel and to the judge’s attorney on May 31, 2017.

*This order may not be used as a basis for disqualification of a judge.*

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 16-329

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Judge:           Andrew Hettinger

Complainant: Commission on Judicial Conduct

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**ORDER**

**I. BACKGROUND**

On February 6, 2017, the Commission on Judicial Conduct publically reprimanded Judge Andrew Hettinger (hereinafter Respondent) finding that the Respondent's conduct as a judicial candidate violated multiple rules in Canon 4 of the Code on Judicial Conduct (Code). On February 16, 2017, Respondent filed a request for a formal hearing pursuant to Commission Rule 23 (b)(2). Pursuant to Commission Rules 23 (b)(2)(B) and 24 (a), formal charges were filed on February 27, 2017. A Response was filed on March 14, 2017. Formal Hearing before the Commission was then scheduled for May 15, 2017. On May 10, 2017, the parties filed Joint Prehearing Statement, Stipulated Facts for Formal Hearing, and Stipulated Code of Judicial Conduct Violations.

**II. FORMAL HEARING**

The formal hearing was held before the Commission on May 15, 2017. The Stipulated Facts for Formal Hearing and the Stipulated Code of Judicial Conduct Violations were accepted and adopted by the Commission. The Stipulated Final Exhibits List and admission of eleven exhibits for the hearing were accepted, and the exhibits were admitted. The Respondent testified at the hearing.

**III. FINDINGS OF FACT**

By stipulation, the following facts were accepted and adopted by the Commission:

1. The Commission has jurisdiction of this matter pursuant to Article 6.1, § 4 of the Arizona Constitution and the Rules of the Commission.
2. Respondent has served as a justice of the peace in Maricopa County, Arizona since January 2017, and continues to hold that position.

*This order may not be used as a basis for disqualification of a judge.*

3. As a judicial candidate and judge, Respondent was and is subject to the Code of Judicial Conduct (Effective 09/01/09, last amended 11/24/09) as set forth in Supreme Court Rule 81.

4. At all times relevant to the allegations of misconduct in the Statement of Charges, Respondent was a judicial candidate, subject to the provisions of Canon 4 of the Code.

5. In 2016, Respondent, then thirty years of age and licensed as an attorney for over two years, was a Republican candidate for Justice of the Peace for the Moon Valley precinct in Maricopa County, Arizona.

6. During his campaign, Respondent engaged in various campaign activities, including establishing and maintaining campaign websites and a social media page.

7. Respondent's campaign-related website was [www.andrewhettinger.com](http://www.andrewhettinger.com). After the November 2016 general election, Respondent deactivated this website.

8. Respondent used a Facebook page for campaign purposes, which was open to the public.

9. Respondent's Facebook page contained a small image, approximately the size of a business card or postcard, with a logo that stated "Andrew Hettinger Justice of the Peace." The logo did not contain the words "elect" prior to the candidate's name, or the word "for" in between the candidate's name and the position sought, as required by the Code.

10. Within the "About" section of Respondent's Facebook page next to the logo, Respondent stated: "Andrew Hettinger is a Republican Candidate for Justice of the Peace in the Moon Valley precinct."

11. The logo appeared on Respondent's Facebook page from approximately July 2015, when the page was created, until approximately May 12, 2016, when Respondent removed the logo after receiving correspondence from the Commission regarding the potential Code violation.

12. Respondent initially had two other primary challengers – Travis Pullen and Carl Seel – for the position of Justice of the Peace for the Moon Valley precinct.

13. Respondent obtained a domain name – [www.tpullen.com](http://www.tpullen.com) – which is close to the name of one of his opponents, Travis Pullen. Respondent had internet traffic automatically redirected from that site to his website – [www.andrewhettinger.com](http://www.andrewhettinger.com).

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14. Respondent obtained the domain name – www.tpullen.com – after Travis Pullen’s public announcement that he intended to use that name for his campaign website. Respondent discovered that Mr. Pullen did not already own www.tpullen.com, and he chose to acquire that domain name.

15. Respondent obtained the domain name – www.tpullen.com – on or about March 29, 2016, and had internet traffic automatically redirected to his website until approximately May 12, 2016, when Respondent deactivated the website after receiving correspondence from the Commission regarding the potential Code violation.

16. Travis Pullen withdrew from the justice of the peace race, following a challenge to his nominating petitions. Respondent defeated Carl Seel in the August 30, 2016 primary election. Respondent had no opponent in the November 8, 2016 general election.

17. Respondent attended a portion of a training session entitled “Ethics Issues When Running for Judge,” on April 27, 2016, at the Maricopa County Elections Department, presented by George A. Riemer, Executive Director of the Commission on Judicial Conduct.

18. If Travis Pullen were to testify, he would state that he did not confront Respondent about his purchase of www.tpullen.com directly, but rather, retained counsel who raised the issue with Respondent. Additionally, Mr. Pullen would testify that in his opinion, the funds he expended on legal fees (two \$400.00 payments on May 20, 2016 and June 20, 2016, as reported in his campaign finance reports) could have been used on his campaign, which may have resulted in him obtaining the necessary signatures to be placed on the ballot.

Additional findings of fact are noted in the section below titled, “Commission Rule 19 Mitigating and Aggravating Factors.”

#### **IV. DISCUSSION**

##### **A. Commission Rule 19 Mitigating and Aggravating Factors**

Commission Rule 19, Rules of the Commission on Judicial Conduct, sets forth a number of factors to consider in assessing the appropriate sanction to impose. In considering the relevant mitigating and aggravating factors, the Commission reached the following findings:

*This order may not be used as a basis for disqualification of a judge.*

## **Mitigating Factors**

**1. The judge's experience and length of service on the bench.** In 2016, Respondent was thirty years of age and licensed as an attorney for over two years. Respondent has served as a justice of the peace in Maricopa County, Arizona since January 2017, and continues to hold that position.

**2. Whether the judge has recognized and acknowledged the wrongful nature of the conduct and manifested an effort to change or reform the conduct.** The logo, without the word "elect" or "for," appeared on Respondent's Facebook page from approximately July 2015, when the page was created, until approximately May 12, 2016, when Respondent removed the logo after receiving correspondence from the Commission regarding the potential Code violation. Respondent immediately ceased use of [www.tpullen.com](http://www.tpullen.com) on May 12, 2016. Respondent testified that after approximately May 12, 2016, and before placing his campaign signs, he added stickers with the word "VOTE" to each of his campaign signs. During his testimony, Respondent was contrite and candid. Upon reflection, he acknowledged that his actions could be seen as bringing his "integrity" into question.

**3. Whether there has been prior disciplinary action concerning the judge, and if so, its remoteness and relevance to the present proceeding.** Respondent has no prior disciplinary history.

**4. Whether the judge cooperated fully and honestly with the Commission in the proceeding.** Respondent cooperated with the Commission.

## **Aggravating Factors**

**The Commission finds in aggravation:**

**1. The nature, extent, and frequency of the misconduct.**

Respondent's Facebook page contained a small image, approximately the size of a business card or postcard, with a logo that stated "Andrew Hettinger Justice of the Peace." The logo did not contain the words "elect" prior to the candidate's name, or the word "for" in between the candidate's name and the position sought, as required by the Code. Respondent testified that he had skimmed over Canon 4 of the Code. Respondent also attended a portion of a training session entitled "Ethics Issues When Running for Judge," on April 27, 2016, at the Maricopa County Elections Department, presented by George A. Riemer, Executive Director of the Commission on Judicial Conduct. Respondent did receive a copy of the written materials from the session, and "looked over" part of the materials. Respondent testified that he initially did not

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believe that Rule 4.3(D) applied to him since he was running for “justice of the peace,” and the term “judge” is used in Rule 4.3(D).

Respondent’s campaign website [www.andrewhettinger.com](http://www.andrewhettinger.com) was acquired in July 2015. Travis Pullen announced in March 2016 that he intended to use [www.tpullen.com](http://www.tpullen.com) as his campaign website. After Travis Pullen’s announcement, Respondent went on the internet to investigate the website disclosed by Travis Pullen. He found that Travis Pullen had not secured the domain name [www.tpullen.com](http://www.tpullen.com). With full knowledge of Travis Pullen’s intended use, Respondent secured the domain name for “\$25.00 or \$30.00.” After acquiring the domain name, Respondent opened a website, researched how to, and then redirected all hits on [www.tpullen.com](http://www.tpullen.com) to [www.andrewhettinger.com](http://www.andrewhettinger.com).

In addition to acquiring [www.tpullen.com](http://www.tpullen.com), Respondent testified that he acquired [www.travispullen.com](http://www.travispullen.com) and [www.pullenforjustice.com](http://www.pullenforjustice.com) web addresses. He did not redirect internet traffic from the last two web addresses to [www.andrewhettinger.com](http://www.andrewhettinger.com).

Respondent testified that he went online and tried to find similar information concerning his other opponent in the primary, Carl Seel. Respondent’s attempt to acquire any domain names related to Carl Seel was unsuccessful.

Respondent had acquired domain names involving the use of “Pullen” as early as September 2016 and did not cease his activity in that regard until after receiving the Commission’s letter in May 2016. Travis Pullen was out of the race sometime in June 2016.

Respondent testified that he was caught up in the campaign, therefore, his conduct in acquiring domain names and redirecting traffic to his webpage was an impulsive decision. Respondent’s efforts focused on both judicial opponents and were calculated to disadvantage them in the campaign. The totality of Respondent’s conduct is not consistent with constituting an impulsive decision; rather, it was a calculated strategic campaign plan.

**2. Whether the conduct occurred in the judge’s official capacity or private life.** As a judicial candidate, subject to the provisions of the Code, Respondent’s misconduct occurred in his official capacity.

**3. The nature and extent to which the acts of misconduct injured other persons or respect for the judiciary.** Respondent’s misconduct resulted in

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a negative impact on then judicial candidate Travis Pullen and has likely resulted in a negative impact on the public's respect for the judiciary.

## **B. Code Violations**

The Commission finds that Respondent's conduct as a judicial candidate violated multiple rules in Canon 4 of the Code, as follows:

- Rule 4.2. states: (A) A judicial candidate shall: (1) act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary; (2) comply with all applicable election, election campaign, and election campaign fundraising laws and regulations; (3) review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee, as authorized by Rule 4.4, before their dissemination; and (4) take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities other than those described in Rule 4.4 that the candidate is prohibited from doing by Rule 4.1.

- Rule 4.3 states: During the course of any campaign for nomination or election to judicial office, a judicial candidate, by means of campaign materials, including sample ballots, advertisements in the media, electronic communications, or a speech, press release, or any other public communication, shall not knowingly or with reckless disregard do any of the following:

- (A) Post, publish, broadcast, transmit, circulate, or distribute information concerning the judicial candidate or an opponent that would be deceiving or misleading to a reasonable person;

...

- (D) Use the term "judge" when the judicial candidate is not a judge unless that term appears after or below the name of the judicial candidate and is accompanied by the words "elect" or "vote," in prominent lettering, before the judicial candidate's name or the word "for," in prominent lettering, between the name of the judicial candidate and the term "judge";

...

- (J) Falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a judicial candidate by a person, organization, political party, or publication.

*This order may not be used as a basis for disqualification of a judge.*

By stipulation, the following code violations were admitted by Respondent and are hereby adopted by the Commission:

By Respondent's conduct stated above in paragraphs 5-11 of the stipulated facts adopted by the Commission (facts regarding Respondent's logo), Respondent violated Rules 4.3 and 4.3(D) of the Code.

By Respondent's conduct stated in paragraphs 5-7 and 12-16 of the stipulated facts adopted by the Commission (facts regarding the redirection of internet traffic from www.tpullen.com), Respondent violated Rule 4.2(A)(1) of the Code.

The Commission also finds that Respondent's conduct in redirecting internet traffic from www.tpullen.com violated Rule 4.3 A) and Rule 4.3(J).

As a judicial candidate, Respondent, with knowledge of his judicial opponent Travis Pullen's intent to use www.tpullen.com as his campaign website, obtained and registered www.tpullen.com, before Travis Pullen could register that domain name. Respondent researched how to redirect internet traffic, and then took the extra step to automatically direct visitors from that site to his website, www.andrewhettinger.com. Respondent testified that he also acquired www.travispullen.com and www.pullenforjustice.com. He did not redirect internet traffic from the last two web addresses to www.andrewhettinger.com. Respondent testified that he went online and tried to find similar information concerning his other opponent in the primary, Carl Seel. Respondent's attempt to acquire any domain names related to Carl Seel was unsuccessful. The commission finds Respondent's conduct to be deceptive and dishonest. Such conduct violated Rule 4.3(A) by posting, publishing, broadcasting, transmitting, circulating or distributing information concerning his judicial candidacy and his opponent that would be deceiving or misleading to a reasonable person. By engaging in this conduct, Respondent also failed to act in a manner that is consistent with the independence, integrity, and impartiality of the judiciary as required by Rule 4.2. Finally, the Commission finds Respondent's conduct violated Rule 4.3(J), as the misdirection of the website was a false identification of the source of a statement. Comment 1 to Rule 4.3 states, "a judicial candidate must be scrupulously accurate, fair and honest in all statements made by the candidate and his or her campaign committee."

## V. CONCLUSION

After a formal hearing on May 15, 2017, the receipt and review of the pleadings, the stipulations, the testimony of the Respondent, and the arguments of Disciplinary Counsel and Respondent's Counsel:

*This order may not be used as a basis for disqualification of a judge.*



Judge Andrew Hettinger is hereby publically reprimanded for his conduct as described above and pursuant to Commission Rule 17 (a).

The record in this case, consisting of the February 6, 2017 reprimand order, judge's notice of request for hearing, notice of institution of formal proceedings, statement of charges, the judge's response, case management order, joint prehearing statement, stipulated facts for formal hearing, stipulated code of judicial conduct violations, and this Order, shall be made public as required by Commission Rule 9(a).

The oral request made at the hearing by Disciplinary Counsel that Respondent pay the costs of fees of the Commission in preparing and conducting the formal hearing in this matter is hereby denied.

Commission members Gus Aragón, Jr., Margaret H. Downie, George H. Foster, Jr. and Art Hinshaw did not participate in the hearing and deliberations on this case.

Dated: May 30, 2017

FOR THE COMMISSION

/s/ Louis Frank Dominguez  
Hon. Louis Frank Dominguez  
Commission Chair

A copy of this order was emailed to disciplinary counsel and to the judge's attorney on May 30, 2017.

*This order may not be used as a basis for disqualification of a judge.*

**FILED**

**MAY 10 2017**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

April P. Elliott (Bar # 016701)  
Disciplinary Counsel  
Arizona Commission on Judicial Conduct  
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**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )

**Judge Andrew Hettinger** )  
Moon Valley Justice Court )  
Maricopa County )  
State of Arizona )

Respondent )

Case No. 16-329

**JOINT PREHEARING  
STATEMENT**

---

Disciplinary Counsel and counsel for Respondent, after conferring, hereby submit this prehearing statement prepared pursuant to the Case Management Order dated April 14, 2017. The parties intend that this matter primarily be submitted on the Stipulated Facts for Formal Hearing and Stipulated Code of Conduct Violations, dated May 10, 2017. The parties contemplate the focus of the hearing on May 15, 2017, will be on the disputed Code violations and the appropriate sanction/disposition to be imposed.

**I. Agreements Reached by the Parties**

The parties filed their statement of Stipulated Facts for Formal Hearing and Stipulated Code of Conduct Violations on May 10, 2017, and incorporate those stipulations herein by this reference.

**A. Stipulated Facts**

1. The Commission has jurisdiction of this matter pursuant to Article 6.1, § 4 of the Arizona Constitution and the Rules of the Commission.

2. Respondent has served as a justice of the peace in Maricopa County, Arizona since January 2017, and continues to hold that position.

3. As a judicial candidate and judge, Respondent was and is subject to the Code of Judicial Conduct (effective 09/01/09, last amended 11/24/09) (Code) as set forth in Supreme Court Rule 81.

4. At all times relevant to the allegations of misconduct in the Statement of Charges, Respondent was a judicial candidate, subject to the provisions of Canon 4 of the Code.

5. In 2016, Respondent, then thirty years of age and licensed as an attorney for over two years, was a Republican candidate for Justice of the Peace for the Moon Valley precinct in Maricopa County, Arizona.

6. During his campaign, Respondent engaged in various campaign activities, including establishing and maintaining a campaign website and a social media page.

7. Respondent's campaign-related website was [www.andrewhettinger.com](http://www.andrewhettinger.com). After the November 2016 general election, Respondent deactivated this website.

8. Respondent used a Facebook page for campaign purposes, which was open to the public.

9. Respondent's Facebook page contained a small image, approximately the size of a business card or postcard, with a logo that stated, "Andrew Hettinger Justice of the Peace." The logo did not contain the words "elect" prior to the candidate's name, or the word "for" in between the candidate's name and the position sought, as required by the Code.

10. Within the "About" section of Respondent's Facebook page next to the logo, Respondent stated, "Andrew Hettinger is a Republican Candidate for Justice of the Peace in the Moon Valley precinct."

11. The logo appeared on Respondent's Facebook page from approximately July 2015, when the page was created, until approximately May 12, 2016, when

Respondent removed the logo after receiving correspondence from the Commission regarding the potential Code violation.

12. Respondent initially had two other primary challengers – Travis Pullen and Carl Seel – for the position of Justice of the Peace for the Moon Valley precinct.

13. Respondent obtained a domain name – www.tpullen.com – which is close to the name of one of his opponents, Travis Pullen. Respondent had internet traffic automatically redirected from that site to his website – www.andrewhettinger.com.

14. Respondent obtained the domain name – www.tpullen.com – after Travis Pullen’s public announcement that he intended to use that name for his campaign website. Respondent discovered that Mr. Pullen did not already own www.tpullen.com, and he chose to acquire that domain name.

15. Respondent obtained the domain name – www.tpullen.com – on or about March 29, 2016, and had internet traffic automatically redirected to his website until approximately May 12, 2016, when Respondent deactivated the website after receiving correspondence from the Commission regarding the potential Code violation.

16. Travis Pullen withdrew from the justice of the peace race following a challenge to his nominating petitions. Respondent defeated Carl Seel in the August 30, 2016 primary election. Respondent had no opponent in the November 8, 2016 general election.

17. Respondent attended a portion of a training session entitled, “Ethics Issues When Running for Judge,” on April 27, 2016, at the Maricopa County Elections Department, presented by George A. Riemer, Executive Director of the Commission on Judicial Conduct.

18. If Travis Pullen were to testify, he would state that he did not confront Respondent about his purchase of www.tpullen.com directly, but rather, retained counsel who raised the issue through a bar complaint. Additionally, Mr. Pullen would testify that, in his opinion, the funds he expended on legal fees (two \$400.00 payments on May 20, 2016 and June 20, 2016, as reported in his campaign finance reports)

could have been used on his campaign, which may have resulted in him obtaining the necessary signatures to be placed on the ballot.

**B. Stipulated Code of Conduct Violations**

1. By Respondent's conduct alleged in paragraphs 6-11 of the Statement of Charges, admitted in paragraphs 6-11 of his Response, and stated in paragraphs 5-11 of the Stipulated Facts for Formal Hearing (facts regarding Respondent's logo), Respondent violated Rules 4.3 and 4.3(D) of the Code.

2. By Respondent's conduct alleged in paragraphs 6-8 and 12-15 of the Statement of Charges, admitted in paragraphs 6-8 and 12-15 of his Response, and stated in paragraphs 5-7 and 12-16 of the Stipulated Facts for Formal Hearing (facts regarding the redirection of internet traffic from www.tpullen.com), Respondent violated Rule 4.2(A)(1) of the Code.

**II. Facts/Code Violations in Dispute**

**A. The Parties Do Not Have Any Facts in Dispute**

**B. The Parties Positions Regarding Code Violations in Dispute**

**1. Commission**

a. Respondent's conduct, as alleged in paragraphs 6-8 and 12-15 of the Statement of Charges, admitted in paragraphs 6-8 and 12-15 of his Response, and as stated in paragraphs 5-7 and 12-15 of the Stipulated Facts for Formal Hearing (facts regarding the redirection of internet traffic from www.tpullen.com), violated Rule 4.3 and 4.3(A) of the Code which states:

During the course of any campaign for nomination or election to judicial office, a judicial candidate, by means of campaign materials, including sample ballots, advertisements in the media, electronic communications, or a speech, press release, or any other public communication, shall not knowingly or with reckless disregard . . . post, publish, broadcast, transmit, circulate, or distribute information concerning the judicial candidate or an opponent that would be deceiving or misleading to a reasonable person.

b. Respondent's conduct, as alleged in paragraphs 6-8 and 12-15 of the Statement of Charges, admitted in paragraphs 6-8 and 12-15 of his Response, and as stated in paragraphs 5-7 and 12-15 of the Stipulated Facts for Formal Hearing

(facts regarding the redirection of internet traffic from www.tpullen.com), violated Rule 4.3 and Rule 4.3(j) of the Code which states:

During the course of any campaign for nomination or election to judicial office, a judicial candidate, by means of campaign materials, including sample ballots, advertisements in the media, electronic communications, or a speech, press release, or any other public communication, shall not knowingly or with reckless disregard . . . falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a judicial candidate by a person, organization, political party, or publication.

**2. Respondent**

a. Respondent's conduct, as alleged in paragraphs 6-8 and 12-15 of the Statement of Charges, admitted in paragraphs 6-8 and 12-15 of his Response, and as stated in paragraphs 5-7 and 12-16 of the Stipulated Facts for Formal Hearing (facts regarding the redirection of internet traffic from www.tpullen.com), did not violate Rule 4.3(A) of the Code. Respondent never posted any "information" about Mr. Pullen on either website, much less information that would be deceiving or misleading to a reasonable person.

b. Respondent's conduct, as alleged in paragraphs 6-8 and 12-15 of the Statement of Charges, admitted in paragraphs 6-8 and 12-15 of his Response, and as stated in paragraphs 5-7 and 12-16 of the Stipulated Facts for Formal Hearing (facts regarding the redirection of internet traffic from www.tpullen.com), did not violate Rule 4.3(J) of the Code. Respondent never issued any statements under Mr. Pullen's name nor took any other action in violation of Rule 4.3(J).

**III. Pending Discovery Disputes**

None.

**IV. Final Witness Lists & Summary of Anticipated Witness Testimony**

**A. Commission**

1. Respondent. In addition to submitting to cross examination, Respondent is expected to testify to all relevant facts as stipulated by the parties, including but not limited to: Respondent's website and Facebook page, the logo/image

utilized in his campaign, the acquisition of the domain name – www.tpullen.com, and the redirection of traffic from that website to his own website – www.andrewhettinger.com, and his attendance at a portion of an ethics training, “Ethical Issues When Running for Judge,” on April 27, 2016.

**B. Respondent**

1. Respondent. Respondent is expected to testify to all relevant facts as stipulated by the parties (and as described above in Section IV.A.1). Additionally, Respondent is expected to testify to facts relevant to the factors bearing on whether discipline should be imposed (such as the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, and other factors included in the “Scope” section of the Code) and to facts relevant to mitigating factors set forth in Rule 19 of the Commission’s Rules.

**V. Stipulated Final Exhibit List**

The parties stipulate to the admission of the following exhibits at the hearing:

1. Copy of logo/image displayed by Respondent on his Facebook page during his campaign.
2. Letter dated December 1, 2016, from Disciplinary Counsel requesting Respondent respond to the complaint in Case No. 16-329.
3. Respondent’s letter (through counsel) to Bradley F. Perry, Senior Bar Counsel, State Bar of Arizona, dated August 23, 2016, including attachments.
4. Letter dated December 23, 2016, from Respondent’s counsel, Geoffrey Sturr, to Disciplinary Counsel.
5. Letter dated January 17, 2017, from Bradley F. Perry, Senior Bar Counsel, State Bar of Arizona, to Respondent’s former counsel, Geoffrey Sturr.
6. PowerPoint presentation from “Ethics Issues When Running for Judge,” presented by George A. Riemer, Executive Director, Arizona Commission on Judicial Conduct, to judicial candidates at the Maricopa County Elections Department on April 27, 2016.
7. Sign-in sheet for attendees at “Ethics Issues When Running for Judge,” presented by George A. Riemer, Executive Director, Arizona Commission on Judicial

Conduct, to judicial candidates at the Maricopa County Elections Department on April 27, 2016.

8. Picture of Respondent's campaign sign.
9. Copy of first page of Google search returns dated August 22, 2016.
10. Letter dated March 8, 2017, from Nancy Truhler.
11. Letter dated March 9, 2017, from Jerri Romaszewski.

**VI. Objections to Witnesses or Exhibits**

None.

**VII. Remaining Issues**

None.

Dated this 10th day of May, 2017.

**COMMISSION ON JUDICIAL CONDUCT**

By: /s/ April P. Elliott

April P. Elliott  
Disciplinary Counsel

**JENNINGS, STROUSS & SALMON, P.L.C.**

By: /s/ J. Scott Rhodes

J. Scott Rhodes  
Attorney for Respondent

Original of the foregoing filed this 10th day of May, 2017, with:

Clerk of the Commission  
Commission on Judicial Conduct  
1501 W. Washington, Suite 229  
Phoenix, AZ 85007



**FILED**

**MAY 10 2017**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

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**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	Case No. 16-329
<b>Judge Andrew Hettinger</b>	)	
Moon Valley Justice Court	)	<b>STIPULATED FACTS FOR</b>
Maricopa County	)	<b>FORMAL HEARING</b>
State of Arizona	)	
	)	
Respondent	)	

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In an effort to expedite the May 15, 2017 hearing, the Commission and Respondent have stipulated to the following:

1. The Commission has jurisdiction of this matter pursuant to Article 6.1, § 4 of the Arizona Constitution and the Rules of the Commission.
2. Respondent has served as a justice of the peace in Maricopa County, Arizona since January 2017, and continues to hold that position.
3. As a judicial candidate and judge, Respondent was and is subject to the Code of Judicial Conduct (Effective 09/01/09, last amended 11/24/09) (Code) as set forth in Supreme Court Rule 81.
4. At all times relevant to the allegations of misconduct in the Statement of Charges, Respondent was a judicial candidate, subject to the provisions of Canon 4 of the Code.
5. In 2016, Respondent, then thirty years of age and licensed as an attorney for over two years, was a Republican candidate for Justice of the Peace for the Moon Valley precinct in Maricopa County, Arizona.

6. During his campaign, Respondent engaged in various campaign activities, including establishing and maintaining a campaign websites and a social media page.

7. Respondent's campaign-related website was [www.andrewhettinger.com](http://www.andrewhettinger.com). After the November 2016 general election, Respondent deactivated this website.

8. Respondent used a Facebook page for campaign purposes, which was open to the public.

9. Respondent's Facebook page contained a small image, approximately the size of a business card or postcard, with a logo that stated "Andrew Hettinger Justice of the Peace." The logo did not contain the words "elect" prior to the candidate's name, or the word "for" in between the candidate's name and the position sought, as required by the Code.

10. Within the "About" section of Respondent's Facebook page next to the logo, Respondent stated: "Andrew Hettinger is a Republican Candidate for Justice of the Peace in the Moon Valley precinct."

11. The logo appeared on Respondent's Facebook page from approximately July 2015, when the page was created, until approximately May 12, 2016, when Respondent removed the logo after receiving correspondence from the Commission regarding the potential Code violation.

12. Respondent initially had two other primary challengers – Travis Pullen and Carl Seel – for the position of Justice of the Peace for the Moon Valley precinct.

13. Respondent obtained a domain name – [www.tpullen.com](http://www.tpullen.com) – which is close to the name of one of his opponents, Travis Pullen. Respondent had internet traffic automatically redirected from that site to his website – [www.andrewhettinger.com](http://www.andrewhettinger.com).

14. Respondent obtained the domain name – [www.tpullen.com](http://www.tpullen.com) – after Travis Pullen's public announcement that he intended to use that name for his campaign website. Respondent discovered that Mr. Pullen did not already own [www.tpullen.com](http://www.tpullen.com), and he chose to acquire that domain name.

15. Respondent obtained the domain name – [www.tpullen.com](http://www.tpullen.com) – on or about March 29, 2016, and had internet traffic automatically redirected to his website until approximately May 12, 2016, when Respondent deactivated the website after

receiving correspondence from the Commission regarding the potential Code violation.

16. Travis Pullen withdrew from the justice of the peace race, following a challenge to his nominating petitions. Respondent defeated Carl Seel in the August 30, 2016 primary election. Respondent had no opponent in the November 8, 2016 general election.

17. Respondent attended a portion of a training session entitled "Ethics Issues When Running for Judge," on April 27, 2016, at the Maricopa County Elections Department, presented by George A. Riemer, Executive Director of the Commission on Judicial Conduct.

18. If Travis Pullen were to testify, he would state that he did not confront Respondent about his purchase of www.tpullen.com directly, but rather, retained counsel who raised the issue with Respondent. Additionally, Mr. Pullen would testify that in his opinion, the funds he expended on legal fees (two \$400.00 payments on May 20, 2016 and June 20, 2016, as reported in his campaign finance reports) could have been used on his campaign, which may have resulted in him obtaining the necessary signatures to be placed on the ballot.

Dated this 10th day of May, 2017.

COMMISSION ON JUDICIAL CONDUCT

By: /s/ April P. Elliott

April P. Elliott

Disciplinary Counsel

JENNINGS, STROUSS & SALMON, P.L.C.

By: /s/ J. Scott Rhodes

J. Scott Rhodes

Attorney for Respondent

Original of the foregoing filed this 10th day of May, 2017, with:

Clerk of the Commission  
Commission on Judicial Conduct  
1501 W. Washington, Suite 229  
Phoenix, AZ 85007

**FILED**

**MAY 10 2017**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

April P. Elliott (Bar # 016701)  
Disciplinary Counsel  
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Telephone: (602) 452-3200  
Email: [aelliott@courts.az.gov](mailto:aelliott@courts.az.gov)

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	Case No. 16-329
<b>Judge Andrew Hettinger</b>	)	
Moon Valley Justice Court	)	<b>STIPULATED CODE OF</b>
Maricopa County	)	<b>JUDICIAL CONDUCT</b>
State of Arizona	)	<b>VIOLATIONS</b>
	)	
Respondent	)	

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In an effort to expedite the May 15, 2017 hearing, the Commission and Respondent have stipulated that Respondent committed the following violations of the Code of Judicial Conduct, which Respondent previously admitted in the Response to the Statement of Charges and the Stipulated Facts for Formal Hearing:

1. By Respondent's conduct alleged in paragraphs 6-11 of the Statement of Charges, admitted in paragraphs 6-11 of his Response and stated in paragraphs 5-11 of the Stipulated Facts for Formal Hearing (facts regarding Respondent's logo), Respondent violated Rules 4.3 and 4.3(D) of the Code.

2. By Respondent's conduct alleged in paragraphs 6-8 and 12-15 of the Statement of Charges, admitted in paragraphs 6-8 and 12-15 of his Response and stated in paragraphs 5-7 and 12-16 of the Stipulated Facts for Formal Hearing (facts regarding the redirection of internet traffic from [www.tpullen.com](http://www.tpullen.com)), Respondent violated Rule 4.2(A)(1) of the Code.

...

Dated this 10th day of May, 2017.

**COMMISSION ON JUDICIAL CONDUCT**

**By: /s/ April P. Elliott**  
**April P. Elliott**  
**Disciplinary Counsel**

**JENNINGS, STROUSS & SALMON, P.L.C.**

**By: /s/ J. Scott Rhodes**  
**J. Scott Rhodes**  
**Attorney for Respondent**

Original of the foregoing filed this 10<sup>th</sup> day of May, 2017, with:

**Clerk of the Commission**  
**Commission on Judicial Conduct**  
**1501 W. Washington, Suite 229**  
**Phoenix, AZ 85007**

Arizona Commission on Judicial Conduct  
1501 West Washington Street, Suite 229  
Phoenix, AZ 85007  
Telephone: (602) 452-3200

**FILED**

**APR 14 2017**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	Case No. 16-329
<b>Judge Andrew Hettinger</b>	)	
Moon Valley Justice Court	)	<b>CASE MANAGEMENT ORDER</b>
Maricopa County	)	
State of Arizona	)	
	)	
Respondent	)	

---

The formal charges in this case were filed on February 27, 2017. The Respondent filed an answer on March 14, 2017. A telephonic Status/Scheduling Conference was held on April 4, 2017. In order to manage the matters under consideration, this schedule is established pursuant to Commission Rule 27(b).

**IT IS THEREFORE ORDERED,**

1. **Priority.** The parties shall treat this judicial disciplinary proceeding as a priority matter and are hereby put on notice that the deadlines and dates set in this order shall be continued, extended or otherwise delayed only upon a showing of good cause. No filing shall extend the deadlines set forth in this order without the prior approval of the presiding member.

2. **Applicable Rules.** The Rules of the Commission on Judicial Conduct shall govern these proceedings. All references to time in the rules or in this order shall be computed in accordance with Rule 6(a), Arizona Rules of Civil Procedure.

**3. Correspondence, Filing and Exchange of Documents.**

Correspondence and all original motions, pleadings or other legal documents required by this order or permitted by commission rules shall be filed electronically with the commission's clerk and served simultaneously on the other party by electronic mail.

**4. Recording Proceedings.** The public hearing in these proceedings shall be recorded by an official court reporter selected by the commission clerk, unless the parties agree to record the proceedings digitally using court recording software. All other meetings or conferences, with the exception of any settlement conferences, shall be digitally recorded unless an official court reporter is requested by a party. The fees and expenses of a court reporter so requested shall be paid by the requesting party. A court reporter shall not be present during deliberations of the hearing panel.

**5. Discovery.** All discovery shall be completed in accordance with Commission Rule 26.

**a. Witness Lists.** The parties shall make initial disclosure and shall exchange lists of witnesses and exhibits as provided in Commission Rule 26(a).

**b. Completion of Discovery.** Pursuant to Commission Rule 26(d), the duty to provide timely discovery is ongoing and both parties must supplement their initial discovery exchanges in a timely manner.

**6. Motions.** All motions regarding discovery and any other prehearing motions, including motions *in limine*, shall be filed by email with the commission clerk. Parties are directed to expedite this proceeding by delivering or emailing copies of all motions to the other party and the presiding member on the same day the

motions are filed. Responses to motions shall be filed no later than five (5) days after receipt of the motions. No replies to responses are permitted unless approved by the presiding member. If authorized, replies shall be filed within two (2) days of the order permitting same.

**7. Joint Prehearing Statement.** Counsel for the parties shall meet personally before the prehearing conference to discuss and attempt to resolve in good faith, to the extent possible, all pending matters. Counsel for the parties shall prepare and file with the commission clerk by 5:00 p.m. on Friday, May 5, 2017, a joint prehearing memorandum setting forth the substance of all agreements reached; each party's position regarding each issue in dispute; each party's position on any pending discovery disputes; a final list of witnesses each party will call to testify at the hearing, together with a brief statement of each witnesses' expected testimony; a final list of exhibits that each party will offer at the hearing; any objection either party has to the witnesses and exhibits to be called or offered by the other party; the course and status of any settlement discussions; and any other issues the parties deem appropriate.

**8. Exhibits.** Exhibits that the parties intend to use at the hearing shall be delivered to the commission's office at least five (5) business days before the May 15, 2017 hearing. All exhibits must be pre-numbered, clearly labeled in the bottom right-hand corner as "Petitioner's" or "Respondent's" exhibits and scanned as individual PDFs that can be emailed to the commission clerk. One original copy plus an individually scanned copy of each proposed exhibit is required.



9. **Hearing.** Notice also is given that a hearing on the statement of charges in this matter is set for Monday, May 15, 2017 at 9:30 a.m. in Hearing Room 109 at the Arizona State Courts Building, 1501 W. Washington Street, Phoenix, Arizona, 85007. This is a firm hearing date, and absent extraordinary cause, no continuance will be granted. The presiding member has scheduled one day for the hearing. The parties should anticipate a roughly equal division of the allotted time for presentation of each party's case by direct or cross-examination, and any opening or closing remarks of counsel. The parties should have this schedule in mind when anticipating the presentation of evidence.

10. **Recommendations.** The hearing panel may request the parties to provide proposed findings of fact and conclusions of law for consideration and adoption before concluding deliberations. In that event, the presiding member shall issue an order directing the parties to file such proposals with the commission's clerk. The presiding member's recommendations shall be filed pursuant to Commission Rule 28(a).

///

11. If the parties wish to modify or amend the deadlines established in this order, they may make a request to do so by filing an appropriate motion with the presiding member within three (3) days of this date.

DATED this 14th day of April, 2017.

/s/ Louis Frank Dominguez  
Hon. Louis Frank Dominguez  
Presiding Member of Hearing Panel

Original of this pleading filed on the 14th day of April, 2017, with:

Commission on Judicial Conduct  
1501 W. Washington St., Ste. 229  
Phoenix, AZ 85007

Copy of the foregoing sent via email only to:

J. Scott Rhodes, Esq.  
Jennings, Strouss & Salmon, PLC  
*srhodes@jsslaw.com*

April P. Elliott, Esq.  
Disciplinary Counsel  
Commission on Judicial Conduct  
*aelliott@courts.az.gov*

By: /s/ Kim Welch  
Kim Welch, Commission Clerk

**FILED**

**MAR 14 2017**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

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srhodes@jsslaw.com

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MinuteEntries@jsslaw.com

*Attorneys for Respondent*

**STATE OF ARIZONA**

**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning:

**JUDGE ANDREW HETTINGER,**  
Moon Valley Justice Court  
Maricopa County  
State of Arizona

Respondent.

Case No. 16-329

**RESPONSE TO STATEMENT OF  
CHARGES**

Pursuant to Rule 25(a) of the Rules of the Commission on Judicial Conduct,  
Justice of the Peace Andrew Hettinger ("Respondent") hereby submits his response to the  
Statement of Charges filed on February 27, 2017. All allegations in the Statement of  
Charges not specifically admitted herein are denied.

**JURISDICTION**

1. Respondent admits the allegations in **Paragraph 1** of the Statement of  
Charges.
2. Respondent admits the allegations in **Paragraph 2** of the Statement of  
Charges.
3. Respondent admits the allegations in **Paragraph 3** of the Statement of  
Charges.

4. Respondent admits the allegations in **Paragraph 4** of the Statement of Charges.

5. Respondent admits the allegations in **Paragraph 5** of the Statement of Charges.

#### **FACTUAL BACKGROUND**

6. Respondent admits the allegations in **Paragraph 6** of the Statement of Charges. Respondent further states that, at the time, he was 30 years old and had been an Arizona-licensed attorney for two-plus years.

7. Respondent admits the allegations in **Paragraph 7** of the Statement of Charges.

8. Respondent admits the allegations in **Paragraph 8** of the Statement of Charges.

9. Respondent admits the allegations in **Paragraph 9** of the Statement of Charges.

10. Respondent admits the allegations in **Paragraph 10** of the Statement of Charges. Respondent further states that, before posting the logo to his website, he read Rule 4.3(D) of the Arizona Code of Judicial Conduct (the "Code") *literally*, and mistakenly concluded that the rule did not apply to him because it restricted the use of the term "judge," and he was running as a candidate for, and using the term, "justice of the peace." He overlooked the "Terminology" section of the Code, which defines "judge" to include justices of the peace. Respondent accepts responsibility for his mistake and regrets it. He respectfully contends that it is unlikely that his transgression caused harm

to the judicial system or others. In the "About" section of his Facebook page, which appeared next to the logo, the following sentence appeared: "Andrew Hettinger is a Republican *Candidate* for Justice of the Peace in the Moon Valley Precinct." (Emphasis added.)

11. Respondent admits the allegations in **Paragraph 11** of the Statement of Charges. Respondent further states that, after receiving the Commission's May 12, 2016 letter (and thereby learning for the first time of his mistaken reading of Rule 4.3(D)), he immediately removed the logo from his website.

12. Respondent admits the allegations in **Paragraph 12** of the Statement of Charges.

13. Respondent admits the allegations in **Paragraph 13** of the Statement of Charges.

14. Respondent admits the allegations in **Paragraph 14** of the Statement of Charges. Respondent further states that he acquired the "tpullen.com" domain name because it was not registered, and then redirected traffic from that domain name to his website "andrewhettinger.com." Respondent never received a question or complaint from Mr. Pullen about his acquisition and use of the "tpullen.com" website. After receiving the Commission's May 12, 2016 letter (and thereby learning of its concerns about the website), Respondent immediately deactivated the "tpullen.com" website.

15. Respondent admits the allegations in **Paragraph 15** of the Statement of Charges.

16. Respondent admits the allegations in **Paragraph 16** of the Statement of Charges, but respectfully contends that his transgression should not result in the imposition of discipline.

17. Respondent denies the allegations in **Paragraph 17** of the Statement of Charges. Respondent never posted any "information" about Mr. Pullen on either website, much less information that would be deceiving or misleading to a reasonable person.

18. In answer to **Paragraph 18** of the Statement of Charges, Respondent admits that his actions were not consistent with the integrity of the judiciary [Rule 4.2(A)(1)] and, to the extent that the rules in the Arizona Code of Judicial Conduct constitute regulations, that his actions failed to comply with all applicable election regulations [4.2(A)(2)]. Respondent denies any other violations of Rule 4.2(A).

19. Respondent denies the allegations in **Paragraph 19** of the Statement of Charges. Respondent never issued any statements under Mr. Pullen's name or took any other action in violation of Rule 4.3(J).

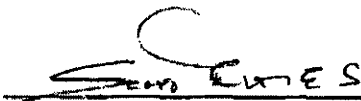
#### **REQUESTED RELIEF**

In response to the unnumbered paragraph requesting relief, Respondent humbly acknowledges his mistakes. He respectfully submits, however, that his mistakes, given mitigating factors to be presented at the hearing on this matter, are not the sort of mistakes that should warrant discipline under the Code. Respondent requests that the Commission consider the State Bar of Arizona's approach to related and similar charges and dismiss the complaint with an advisory letter. A copy of the State Bar's dismissal letter is attached hereto as Exhibit 1.

DATED this 14th day of March, 2017.

JENNINGS, STROUSS & SALMON, P.L.C.

By



J. Scott Rhodes

Kerry A. Hodges

One East Washington Street, Suite 1900

Phoenix, Arizona 85004-2554

*Attorneys for Respondent*

Copy of the foregoing e-mailed this  
14th day of March, 2017, to:

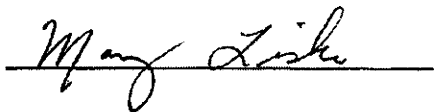
*April P. Elliott, Arizona Commission on Judicial Conduct*

*Kim Welch, Arizona Commission on Judicial Conduct*

*George Riemer, Executive Director, Arizona Commission on Judicial Conduct*

*Marcina Lutz, Administrative Assistant, Arizona Commission on Judicial Conduct*

*Judge Andrew Hettinger, Justice of the Peace, Moon Valley Judicial Precinct*



# **EXHIBIT 1**





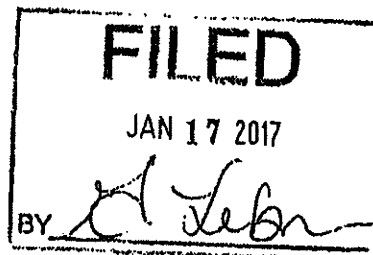
RECEIVED  
OSBORN MALEDON P.A.

JAN 19 2017

Assistant's Direct Line: (602)340-7247

January 17, 2017

Geoffrey M.T. Sturr  
Osborn Maledon, PA  
2929 North Central Avenue  
Suite 2100  
Phoenix, Arizona 85012-2765



**Re: File No:** 16-1923  
**Complainant:** John Douglas Wilenchik  
**Your Client:** Andrew Kyle Hettinger

Dear Mr. Sturr:

Pursuant to Rule 55(b), Ariz. R. Sup. Ct., the charges filed against your client by John Douglas Wilenchik have been investigated and, upon review by Bar Counsel, have been dismissed.

Your client is cautioned to comply with all provisions of Cannon 4 of the Judicial Code in future elections, specifically Rule 4.3(D) which requires you to not use the term "judge" if he is not a judge unless that term appears after or below the name of the judicial candidate and is accompanied by the words "elect" or "vote," in prominent lettering, before the judicial candidate's name or the word "for," in prominent lettering, between the name of the judicial candidate and the term "judge."

While the State Bar does not find your client's conduct regarding tpullen.com violated the express language of Rule 4.3(J) of the Judicial Code, the Bar believes your client's actions could implicate Rule 4.2. Rule 4.2 requires a judicial candidate to act in a manner consistent with the independence, integrity, and impartiality of the judiciary. Integrity is defined in the terminology section of the Code as "probity, fairness, honesty, uprightness, and soundness of character." Purchasing tpullen.com and causing users to be redirected to your client's website is gamesmanship, which is inimical to the concepts of fairness, honesty, and uprightness. Judges are required to be fair, to hold parties to a high ethical standard, and to decide disputes based solely on the merits and the law. Candidates for judges should hold themselves to the same standard.

Your client's conduct regarding tpullen.com may also implicate ER 8.4(c), which states that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. There is currently a split amongst jurisdictions regarding this type of conduct. While your client may consider it savvy marketing, it can just as easily be seen as dishonest conduct that shows a lack of fairness and straightforwardness. See North Carolina 2010 Formal Ethics Opinion 14. While the State Bar is not finding a violation at this time, your client is cautioned that further instances of similar conduct could result in formal discipline.

Pursuant to Rule 53(b)(2), Ariz. R. Sup. Ct., the Complainant may object to this decision within ten (10) days of receipt of the dismissal letter. Any such objection will be referred to the Attorney Discipline Probable Cause Committee for a decision. You will be notified if an objection is filed.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Perry'.

Bradley F. Perry  
Staff Bar Counsel

BFP/sab

April P. Elliott (Bar # 016701)  
Disciplinary Counsel  
Arizona Commission on Judicial Conduct  
1501 West Washington Street, Suite 229  
Phoenix, AZ 85007  
Telephone: (602) 452-3200  
Email: [aelliott@courts.az.gov](mailto:aelliott@courts.az.gov)

**FILED**

**FEB. 27 2017**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	Case No. 16-329
<b>Judge Andrew Hettinger</b>	)	
Moon Valley Justice Court	)	<b>STATEMENT OF CHARGES</b>
Maricopa County	)	
State of Arizona	)	
	)	
Respondent	)	

---

Pursuant to Commission Rules 23(b)(2)(B) and 24(a), Disciplinary Counsel hereby files this Statement of Charges against Justice of the Peace Andrew Hettinger, hereafter Respondent, setting forth the Commission's jurisdiction and specifying the nature of his alleged judicial misconduct.

**JURISDICTION**

1. The Commission on Judicial Conduct (hereafter Commission) has jurisdiction of this matter pursuant to Article 6.1, § 4 of the Arizona Constitution and the Rules of the Commission.

2. This Statement of Charges is filed pursuant to Rules 23(b)(2)(B) and 24(a) of those rules (Commission Rules).

3. Respondent has served as a justice of the peace in Maricopa County since January 2017, and continues to hold that position.

4. As a judge, Respondent is subject to the Arizona Code of Judicial Conduct (effective 09/01/09, last amended 11/24/09) (Code) as set forth in Arizona Supreme Court Rule 81.

5. Respondent was a judicial candidate at all times relevant to these allegations. The Application Section of the Code states that the provisions of Canon 4 apply to judicial candidates.

### **FACTUAL BACKGROUND**

6. In 2016, Respondent was a Republican candidate for the position of Justice of the Peace for the Moon Valley precinct in Maricopa County, Arizona.

7. During the campaign, Respondent engaged in various campaign activities, including establishing and maintaining campaign websites and social media pages.

8. Respondent's campaign related website was [www.andrewhettinger.com](http://www.andrewhettinger.com). Upon information and belief, sometime after the November 2016 general election, Respondent deactivated this website.

9. Respondent also used a Facebook page for campaign purposes. The Facebook page was open to the public.

10. Respondent's Facebook page contained what appeared to be a small card such as a postcard or business card, containing a logo that stated "Andrew Hettinger Justice of the Peace." This logo failed to contain the words "elect" or "for" in locations required by the Code. **Exhibit 1.**

11. Upon information and belief, this logo appeared on Respondent's Facebook page from approximately July 2015, when the page was created, until approximately May 12, 2016, when Respondent was notified by the Commission of the potential Code violation.

12. Respondent initially had two other primary challengers – Travis Pullen and Carl Seel – for the position of Justice of the Peace for the Moon Valley precinct.

13. Respondent obtained a domain name – [www.tpullen.com](http://www.tpullen.com) – which is close to the name of one of his opponents, Travis Pullen. Respondent had internet traffic automatically redirected from that site to his website – [www.andrewhettinger.com](http://www.andrewhettinger.com).

14. Upon information and belief, Respondent obtained the domain name of [www.tpullen.com](http://www.tpullen.com) on or about March 29, 2016, and had internet traffic automatically redirected to his website until approximately May 12, 2016, when Respondent was

notified by the Commission of the potential Code violation, and he made the tpullen.com domain name inactive.

15. Travis Pullen withdrew from the race, following a challenge to his nominating petitions. Respondent defeated Carl Seel in the August 30, 2016, primary election. Respondent had no opponent in the November 8, 2016, general election.

### **VIOLATIONS OF THE CODE OF JUDICIAL CONDUCT**

16. Respondent's conduct, as described above in Paragraphs 6-11, violated Rule 4.3 and Rule 4.3(D) of the Code which states:

During the course of any campaign for nomination or election to judicial office, a judicial candidate by means of campaign materials, . . . , shall not knowingly or with reckless disregard do any of the following: Use the term "judge" when the judicial candidate is not a judge unless that term appears after or below the name of the judicial candidate and is accompanied by the words "elect" or "vote" in prominent lettering, before the judicial candidate's name or the word "for," in prominent lettering, between the name of the judicial candidate and the term "judge".

17. Respondent's conduct, as described above in Paragraphs 6-8 and 12-15, violated Rule 4.3 and Rule 4.3(A) of the Code which states:

During the course of any campaign for nomination or election to judicial office, a judicial candidate, by means of campaign materials, including sample ballots, advertisements in the media, electronic communications, or a speech, press release, or any other public communication, shall not knowingly or with reckless disregard . . . post, publish, broadcast, transmit, circulate, or distribute information concerning the judicial candidate or an opponent that would be deceiving or misleading to a reasonable person.

18. Respondent's conduct as described above in paragraphs 6-8 and 12-15, also violated Rule 4.2 and Rule 4.2(A) of the Code, which states:

(A) A judicial candidate shall: (1) act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary; (2) comply with all applicable election, election campaign, and election campaign fund-raising laws and regulations; (3) review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee, as authorized by Rule 4.4, before their dissemination; and (4) take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities

other than those described in Rule 4.4 that the candidate is prohibited from doing by Rule 4.1.

19. Respondent's conduct as described above in paragraphs 6-8 and 12-15, also violated Rule 4.3 and Rule 4.3(J) of the Code which states:

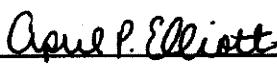
During the course of any campaign for nomination or election to judicial office, a judicial candidate, by means of campaign materials, including sample ballots, advertisements in the media, electronic communications, or a speech, press release, or any other public communication, shall not knowingly or with reckless disregard . . . falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a judicial candidate by a person, organization, political party, or publication.

#### **REQUESTED RELIEF**

WHEREFORE, Disciplinary Counsel hereby requests that the Commission find Respondent in violation of the Code as alleged above; publicly reprimand Respondent or recommend to the Supreme Court that Respondent be censured, suspended, or removed from judicial office; that costs be assessed against Respondent pursuant to Commission Rule 18(e); and that the commission or court grant such other relief as it deems appropriate.

Dated this 27th day of February, 2017.

#### **COMMISSION ON JUDICIAL CONDUCT**

  
\_\_\_\_\_  
April P. Elliott  
Disciplinary Counsel

A copy of this pleading was served on February 27, 2017,  
upon Respondent's counsel, via email, to:

J. Scott Rhodes  
Jennings, Strouss & Salmon, P.L.C.  
SRhodes@jsslaw.com

By: /s/ Kim Welch  
Kim Welch, Commission Clerk

## Exhibit 1

# ANDREW HETTINGER



## JUSTICE OF THE PEACE



Andrew Hettinger

Like This Page · July 21, 2016 ·

Chris Gluvna, Kay Ealon Hettinger, Barbara Egbert Hettinger  
and 6 others like this.



April P. Elliott (Bar # 016701)  
Disciplinary Counsel  
Arizona Commission on Judicial Conduct  
1501 West Washington Street, Suite 229  
Phoenix, AZ 85007  
Telephone: (602) 452-3200  
Email: [aelliott@courts.az.gov](mailto:aelliott@courts.az.gov)

**FILED**

**FEB 27 2017**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	Case No. 16-329
<b>Judge Andrew Hettinger</b>	)	
Moon Valley Justice Court	)	<b>NOTICE OF INSTITUTION OF</b>
Maricopa County	)	<b>FORMAL PROCEEDINGS</b>
State of Arizona	)	
	)	
Respondent	)	

---

**To Judge Andrew Hettinger:**

You are hereby notified that the Commission on Judicial Conduct has instituted formal proceedings against you in accordance with Rules 23(b)(2)(B) and 24 of the Rules of the Commission on Judicial Conduct ("Rules") to inquire into the charges specified in the attached Statement of Charges. You are also notified that a hearing will be held before the Commission to determine whether these charges constitute grounds for judicial discipline as provided in Article 6.1, § 4, of the Arizona Constitution and the Rules.

You are further notified that:

1. April P. Elliott, Attorney at Law, will act as disciplinary counsel for the Commission in this matter, to gather and present evidence before the Commission on the charges.

2. You have the right, pursuant to Rule 25(a), to file a written response to the charges made against you within 15 days after personal or electronic service of this notice upon you, or within 20 days of the date this notice is mailed. An original signed copy of the response must be filed in the Commission's office by 5:00 p.m. on the required date.

3. Upon receipt of your response, or upon expiration of the time in which a response may be filed, the Commission will open and maintain a public file containing the Notice of Institution of Formal Proceedings, the Statement of Charges, and all subsequent pleadings filed with the Commission. This file and the formal hearing in this case shall be open to the public in accordance with Rule 9(a).

4. You have the right to be represented by counsel, to examine and cross-examine witnesses and to require the issuance of subpoenas for the attendance of witnesses or for the production of any evidentiary matters necessary for your defense.

Dated this 27th day of February, 2017.

**COMMISSION ON JUDICIAL CONDUCT**

  
\_\_\_\_\_  
George A. Riemer  
Executive Director

A copy of this pleading was served on February 27, 2017,  
upon Respondent's counsel, via email, to:

J. Scott Rhodes  
Jennings, Strouss & Salmon, P.L.C.  
SRhodes@jsslaw.com

A copy of this pleading was hand-delivered on February 27, 2017, to:

April P. Elliott  
*Disciplinary Counsel*  
Commission on Judicial Conduct

By: /s/ Kim Welch  
Kim Welch, Commission Clerk

FEB 16 2017

1 J. Scott Rhodes - 016721  
2 srhodes@jsslaw.com  
3 **JENNINGS, STROUSS & SALMON, P.L.C.**  
4 A Professional Limited Liability Company  
5 One East Washington Street, Suite 1900  
6 Phoenix, Arizona 85004-2554  
7 Telephone: (602) 262-5911  
8 MinuteEntries@jsslaw.com

9 Attorneys for Judge Andrew Hettinger

7 **STATE OF ARIZONA**  
8 **COMMISSION ON JUDICIAL CONDUCT**

9 Inquiry Concerning:

CASE NO. 16-329

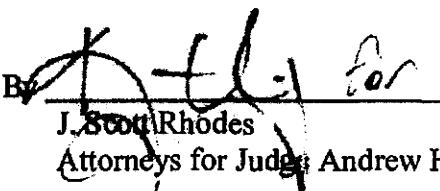
10 **Judge Andrew Hettinger**  
11 Justice of the Peace  
12 Moon Valley Judicial Precinct  
13 Maricopa County  
14 State of Arizona

**NOTICE OF REQUEST FOR  
HEARING**

14 Judge Andrew Hettinger, by and through undersigned counsel, respectfully requests  
15 a hearing pursuant to Commission Rule 23(b)(2).

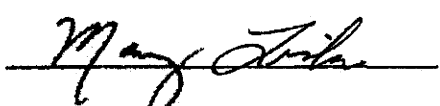
16 **RESPECTFULLY SUBMITTED** this 16<sup>TH</sup> day of February, 2017.

17 JENNINGS, STROUSS & SALMON, P.L.C.

18  
19   
20 By J. Scott Rhodes  
21 Attorneys for Judge Andrew Hettinger

21 Copy of the foregoing e-mailed this  
22 16th day of February, 2017, to:

23 *April Elliott, Arizona Commission on Judicial Conduct*  
24 *Kim Welch, Arizona Commission on Judicial Conduct*  
25 *Judge Andrew Hettinger, Justice of the Peace, Moon Valley Judicial Precinct*

26 

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 16-329

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Judge:           Andrew Hettinger

Complainant: Commission on Judicial Conduct

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**ORDER**

The commission investigated allegations that a candidate for justice of the peace engaged in improper campaign activities.

The commission found that Judge Hettinger's conduct as a judicial candidate violated multiple rules in Canon 4 of the Code, as follows:

- Rule 4.2. states: (A) A judicial candidate shall: (1) act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary; (2) comply with all applicable election, election campaign, and election campaign fund-raising laws and regulations; (3) review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee, as authorized by Rule 4.4, before their dissemination; and (4) take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities other than those described in Rule 4.4 that the candidate is prohibited from doing by Rule 4.1.

- Rule 4.3 states: During the course of any campaign for nomination or election to judicial office, a judicial candidate, by means of campaign materials, including sample ballots, advertisements in the media, electronic communications, or a speech, press release, or any other public communication, shall not knowingly or with reckless disregard do any of the following:

- (A) Post, publish, broadcast, transmit, circulate, or distribute information concerning the judicial candidate or an opponent that would be deceiving or misleading to a reasonable person;

...

- (D) Use the term "judge" when the judicial candidate is not a judge unless that term appears after or below the name of the judicial

*This order may not be used as a basis for disqualification of a judge.*

candidate and is accompanied by the words “elect” or “vote,” in prominent lettering, before the judicial candidate’s name or the word “for,” in prominent lettering, between the name of the judicial candidate and the term “judge”;

...

(J) Falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a judicial candidate by a person, organization, political party, or publication.

Judicial candidate Hettinger maintained a Facebook page for his campaign which stated, “Andrew Hettinger Justice of the Peace” without the words “elect” or “for” contained therein. At the time this information was displayed, he was only a judicial candidate and did not actually hold the office of justice of the peace. Therefore, Judge Hettinger’s conduct violated Rule 4.3(D) of the Code.

Judicial candidate Hettinger obtained a domain name for his opponent, Travis Pullen, [www.tpullen.com](http://www.tpullen.com), which automatically directed visitors from that site to his website, [www.andrewhettinger.com](http://www.andrewhettinger.com). In defense of this conduct, Judge Hettinger claimed that the redirection was of little consequence because very few redirections occurred in the six weeks it was in effect and because his opponent obtained a different domain name for use during his campaign. The commission found Judge Hettinger’s conduct to be deceptive and dishonest notwithstanding the claimed “no harm, no foul.” Such conduct violated Rule 4.3(A) by posting, publishing, broadcasting, transmitting, circulating or distributing information concerning his judicial candidacy and his opponent that would be deceiving or misleading to a reasonable person. By engaging in such gamesmanship, Judge Hettinger also failed to act in a manner that is consistent with the independence, integrity, and impartiality of the judiciary as required by Rule 4.2. Finally, the commission found Judge Hettinger’s conduct violated Rule 4.3(J), as the misdirection of the website was a false identification of the source of a statement. Comment 1 to Rule 4.3 states, “a judicial candidate must be scrupulously accurate, fair and honest in all statements made by the candidate and his or her campaign committee.”

Accordingly, Judge Andrew Hettinger is hereby publicly reprimanded for his conduct as described above and pursuant to Commission Rule 17(a). The record in this case, consisting of the complaint, the judge’s response, and this order shall be made public as required by Rule 9(a).

*This order may not be used as a basis for disqualification of a judge.*

Commission members Peter J. Eckerstrom and Art Hinshaw did not participate in the consideration of this matter.

Dated: February 6, 2017

FOR THE COMMISSION

/s/ Louis Frank Dominguez

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Hon. Louis Frank Dominguez  
Commission Chair

A copy of this order was mailed  
to the judge on February 6, 2017.

*This order may not be used as a basis for disqualification of a judge.*